

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

CORY A. PERKINS,

Petitioner,

v.

MICHELLE MILLER, Warden,

Respondent.

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CASE NO. 3:14-cv-02572

OPINION & ORDER
[Resolving Docs. [1](#), [17](#)]

JAMES S. GWIN, UNITED STATES DISTRICT JUDGE:

Petitioner Cory Perkins seeks a writ of habeas corpus under [28 U.S.C. § 2254](#) to vacate his conviction on three counts of rape.^{1/} On June 19, 2015, Perkins filed a motion to stay his petition or to dismiss it without prejudice.^{2/} Perkins concedes that he has not yet exhausted state remedies with regard to the claims in his petition.^{3/} On June 26, 2015, Magistrate Judge Limbert issued a Report and Recommendation (“R&R”), recommending that the Court deny Perkins’s motion to stay, but grant Perkins’s motion to dismiss his petition without prejudice.^{4/} Magistrate Judge Limbert further recommended that Perkins’s motion for an evidentiary hearing^{5/} be denied as moot.^{6/}

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a R&R to which a party has made an objection.^{7/} Parties must file any objections

^{1/}Doc. [1](#).

^{2/}Doc. [15](#).

^{3/}*Id.*

^{4/}Doc. [17](#).

^{5/}Doc. [5](#).

^{6/}Doc. [17](#) at 3.

^{7/}[28 U.S.C. § 636\(b\)\(1\)\(C\)](#).

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to a R&R within fourteen days of service.^{8/} Failure to object within that time waives a party's right to have the Court review the R&R.^{9/}

Absent objection, a district court may adopt the R&R without review.^{10/} Neither party has objected to the R&R. Moreover, having conducted its own review of the record and the parties' briefing in this case, the Court agrees with the conclusions of Magistrate Judge Limbert.

Accordingly, the Court **ADOPTS** in whole Magistrate Judge Limbert's R&R and incorporates it fully herein by reference. The Court **DENIES** Perkins's request to stay his petition, but **GRANTS** Perkins's request to dismiss his petition without prejudice. Further, the Court **DENIES** Perkins's motion for an evidentiary hearing as moot.

IT IS SO ORDERED.

Dated: July 17, 2015

s/ James S. Gwin
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE

^{8/}[Fed. R. Civ. P. 72\(b\)\(2\)](#); [LR 72.3\(b\)](#).

^{9/}[LR 72.3\(b\)](#); see [Thomas v. Arn](#), 474 U.S. 140, 145 (1985); [United States v. Walters](#), 638 F.2d 947, 949–50 (6th Cir. 1981).

^{10/}See [Thomas](#), 474 U.S. at 149.